

**REMARKS**

In view of the foregoing amendments and following remarks responsive to the Office Action dated April 12, 2006, Applicant respectfully requests favorable reconsideration of this application.

In sections 1 and 2 of the Office Action, the Office pointed out certain informality in the claims. Applicant has herein substantially amended the claim set while, in the process, eliminating any such problems.

The Office rejected all of the claims on various prior art grounds. Specifically, the Office rejected claims 1, 2, 4-6, 8, 10, and 13 as anticipated by Harris, claim 15 as anticipated by Kfoury, claim 17 as anticipated by Otsuka, claims 37 and 14 as obvious over Harris in view of Kfoury, claim 16 as obvious over Kfoury in view of Otsuka, claims 18-20, 22, 24-27, and 30-32 as obvious over Otsuka in view of Harris, and claims 21, 23, 28, and 30 3-35 over Otsuka in view of Harris and Kfoury.

The Application previously contained three independent claims, claims 1, 15, and 17. Applicant has herein (1) amended claim 1 to include the limitations formally contained in dependent claim 2 and rewritten claim 2, (2) cancelled claim 15, and (3) amended independent claim 17 to include the limitations of former claims 24, 25, and 26.

Accordingly, Applicants will herein primarily address the rejections of claims 2 as anticipated by Harris and the rejection of claim 26 as obvious over Kfoury in view of Otsuka.

### **The Present Invention**

The present invention is a portable electronic communication apparatus, such as a cellular telephone, comprising two housing portions, each having first and second opposing major surfaces. At least one surface includes a user interface, such as an LCD display. The device has at least three modes of operation, the particular current mode of operation being dictated by the positions of the two housings relative to each other as detected by a position detecting mechanism. The device comprises two housings rotatably connected to each other in such a way that permits the two housings to be positioned in at least three positions relative to each other, including an open position and two closed positions. Each housing includes a first surface and an opposing second surface. In a preferred embodiment, the two housings are connected by a pivot that permits the two housings to be aligned end to end in the open position, folded towards each other in a first closed position such that the second surface of the first housing is closed toward one surface of the other housing so that the user interface is accessible, and a second closed position such that the first surface of the first housing is closed toward one surface of the other housing so that the user interface is inaccessible. The pivot or other connecting mechanism is adapted to detect which of the three positions the apparatus is in and automatically enter one of the three modes depending on which of the three positions it is in.

**Discussion of the Rejections Using Harris as the Primary Reference**

The Office rejected former claim 2 over Harris. As noted above, claim 1 now incorporates the limitations of former claim 2.

Harris discloses a cellular telephone comprising two generally rectangular housing portions 108, 110, rotatably coupled to each other. However, in Harris, the two housing portions 108, 110 can rotate relative to each other about an axis perpendicular to their major surfaces, i.e., perpendicular to the display user interface that is on the front surface of housing 110. See, for instance, Figures 12 and 14 of Harris, which illustrate how housing 110 (containing the display) rotates relative to housing 108.

Accordingly, in Harris, the front surface of housing 110, which contains the display user interface, always faces outwardly from housing 108. Again, stated in other words, the back surface of the housing 110 always is adjacent the front surface of housing 108.

Accordingly, contrary to the Office's assertions, there is no "second closed position such that the first surface of the first member is closed toward one surface of the other member such that the user interface is inaccessible" as recited in claim 1.

Accordingly, claim 1 patentably distinguishes over Harris.

Other than claims 3, 7, and 14, all the other claims depending from claim 1 were rejected as anticipated or obvious over Harris alone. Accordingly, those claims distinguish over Harris for at least all of the reasons discussed above in connection with claim 1.

With respect to claims 3, 7, and 14, the Office rejection these claims as obvious over Harris in view of Kfoury. Specifically, the Office cited Kfoury as teaching (1) that the user interface is inactive, (2) that the second user interface is a keypad, and (3) wherein the apparatus is a personal digital assistant.

Kfoury has not been cited as teaching any of the elements lacking from claim 1 as discussed above. Accordingly, dependent claims 3, 7, and 14 distinguish over the proposed combination for the at least all of the same reasons discussed above in connection with claim 1.

**Discussion of the Rejections Using Kfoury and Otsuka as Primary References**

Turning now to independent claim 17, which incorporates the former limitations of claims 24, 25 and 26, contrary to the Office's assertions, claim 17 distinguishes over the proposed combination of Kfoury and Otsuka.

Kfoury discloses a cellular telephone comprising two housings connected by a double pivot mechanism that permits the two housings to be folded in the manner described above in connection with the present invention as well as rotated relative to each other about their longitudinal axes.

Because of the double swiveling action of the connecting member in Kfoury, there are six overall positions of the two housings relative to each other, including four closed positions and two open positions. The device includes detectors for detecting the position of the two housings relative to each other (as described in column 6, line 46-65). This portion of Kfoury refers to reference numerals that do not appear in the drawings and, therefore, is rather confusing. Nevertheless, in

column 6, of lines 54-60, it is clear that this detector issues a single signal indicating that the device is closed whenever it is in the first, second, third, or fourth closed positions. Accordingly, there is only one automatically selected mode of operation for all four closed positions. Hence, Kfoury does not teach "a first closed position in which the second surfaces of the first and second housings, respectively, face each other such that, in the first closed position, the first user interface is accessible, and a second closed position in which the first surfaces of the first and second housings, respectively, face each other such that, in the second closed position, the first user interface is inaccessible, wherein the device is in a first operational mode when in the first open position, in a second operational mode when in the first closed position and in a third operational mode when in the second closed position" and "means for automatically entering the corresponding mode responsive to the means for detecting", as claimed in claim 17.

Otsuka discloses a folding mobile telephone including a hinge by which the phone can be folded in half in two different closed positions. However, there is nothing in the abstract of Otsuka that suggests that there is a detector to detect the folding condition of the phone and place the phone in a particular mode of operation based on the detected folding position of the phone. Accordingly, Otsuka also does not teach "a first closed position in which the second surfaces of the first and second housings, respectively, face each other such that, in the first closed position, the first user interface is accessible, and a second closed position in which the first surfaces of the first and second housings, respectively, face each other such that, in the second closed position, the first user interface is inaccessible, wherein the device is

in a first operational mode when in the first open position, in a second operational mode when in the first closed position and in a third operational mode when in the second closed position" and "means for automatically entering the corresponding mode responsive to the means for detecting", as claimed in claim 17.

Accordingly, claim 17 patentably distinguishes over the proposed combination of Kfoury and Otsuka. The remaining dependent claims, claims 27-29 and 33-35, depend from claim 17 and, therefore, distinguish over the prior art record for at least all of the reasons mentioned above in connection with claim 17.

### **Conclusion**

In view of the foregoing amendments and remarks, this application is now in condition for allowance. Applicant respectfully requests the Examiner to issue a Notice of Allowance at the earliest possible date. The Examiner is invited to contact Applicant's undersigned counsel by telephone call in order to further the prosecution of this case in any way.

Group Art Unit: 2681  
Application No. 10/700,189

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The Commissioner is hereby authorized to charge any fees which may be required, any deficiencies that may arise, and to credit any overpayment which may be owed to Applicant in connection with this action and application in general to Deposit Account No. 19-5425.

Respectfully submitted,

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